

86 Ill. Adm. Code 130.550 explains how manufacturers, importers or wholesalers can enter into an "agency agreement" with the Department, whereby they register, file returns and remit Retailers' Occupation Tax on behalf of their local distributors. (This is a GIL).

May 25, 2000

Dear Xxxxx:

This letter is in response to your letter received April 11, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Internet at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We respectfully request a ruling regarding the administration of your jurisdiction's sales tax in light of the following facts and circumstances. By disclosing our company name and taxpayer identification number, we desire a ruling that we may rely on in the occurrence of an audit or examination.

FACTS

COMPANY is a manufacturer and distributor of household products, which are sold through home based Franchised Distributors and Consultants. Please note, Distributors and Consultants are independent business owners and are not employees of COMPANY.

Current Process

Sales are made at COMPANY parties, which are organized by the Consultant and designed to showcase COMPANY products to consumers. During the party, or immediately thereafter, the consumers place orders with the Consultant. The Consultant collects the orders and the money from the consumer. The amount collected includes sales tax, which is computed on the retail selling price. The Consultant then places the individual orders with a Distributor and remits all collected monies. The Distributor places the order with COMPANY via computer or telephone and remits to COMPANY the normal sales price charged to all distributors by COMPANY. The Distributor is responsible for paying the net earnings to consultants, issuing 1099's to the Consultants, and remitting sales tax to the proper jurisdictions. COMPANY is responsible for shipping the product via common carrier to the consultant or to the consumer.

Proposed Process

Hereinafter, Distributors and Consultants will be referred to as Independent Business Owners ("IBOs"). Under the proposed process, with the exception of some minor differences (formal training, coordination of rallies, etc.), the responsibilities of the IBOs will be equivalent. IBOs will order COMPANY products directly from COMPANY via the computer or telephone. The IBOs will be charged for their order through their own credit cards. The charge will include sales tax, computed on the retail selling price, which will be remitted to the proper jurisdictions by COMPANY. The IBOs will receive a confirmation invoice or notice, which will break out the product price, shipping charges, and sales tax. COMPANY will also be responsible for paying net earnings to the IBOs, issuing 1099s, and will continue shipping the product via common carrier directly to the IBO or to the consumer.

ISSUE

Under the proposed process, may COMPANY collect and remit sales taxes, which are received by the IBOs from the end consumers, directly to your jurisdiction?

CONCLUSION

We respectfully request approval for the proposed tax reporting process. Such a process affords benefits for both COMPANY and the jurisdiction. The primary benefit to COMPANY is the ability to centralize its tax reporting process, thus removing the tremendous compliance burden from the many IBOs. The primary benefit to the jurisdiction is the ability to receive all sales tax dollars owed, from one taxpayer; thus reducing its administrative cost, while insuring compliance.

Please send your response to the above referenced issue to:

NAME/ADDRESS

Our intention is to collect and remit the proper amount of sales tax on the sale of our products to your jurisdiction. We appreciate your time and attention to this matter. If you have any questions related to the facts as presented, please contact ####.

We have enclosed 86 Ill. Adm. Code 130.550, which is the Department regulation that covers the Filing of Returns for Retailers by Suppliers Under Certain Circumstances. This regulation explains how manufacturers, importers or wholesalers can enter into an "agency agreement" with the Department, whereby they register, file returns and remit Retailers' Occupation Tax (sales tax) on behalf of their local distributors. Companies remit tax on their sales to distributors, based upon their suggested retail price of the items sold by their distributors. When companies enter into Agency

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Agreements with the Department, they become retailers subject to Retailers' Occupation Tax, and are the entities to which the Department will look for payment of the tax.

To be effective these agreements must be accepted by the Department and would be subject to any written objections of the retailers that would be affected. To obtain a copy of the form necessary to obtain approval of such arrangements, suppliers can call the Department's Taxpayer Information Division at the number listed below.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.